

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

RONALD JEFFREY PRIBLE,
Petitioner,

VS.

LORIE DAVIS,
Respondent.

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)
)
) CIVIL ACTION NO.
) 4:09-CV-1896
)
) 1:01 P.M.
)
)

EVIDENTIARY HEARING
BEFORE THE HONORABLE KEITH P. ELLISON
MAY 2, 2019
VOLUME 3

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produced by computer.

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Video Deposition of Michael Beckcom

THE COURT: Please be seated.

Okay. Good afternoon, and welcome back. We'll proceed with the balance of the -- of the video, I guess.

You ready to proceed?

MS. MIRANDA: Yes, Your Honor. We call Michael Beckcom.

THE COURT: Michael Beckcom, okay.

(Video deposition of Michael Beckcom played as follows.)

EXAMINATION

Q So let's -- let's talk a little bit about the timeline. Before you testified at Mr. Prible's trial, she guaranteed that you'd get out of prison?

A No. She didn't really say those words, "I guarantee." She -- I don't think she hung her ass out like that.

Q Did she lead you to believe that you would be getting out of prison?

A Yeah.

Q Did she tell you that you needed to tell the jury only that she was going to write you a letter?

A No, she didn't -- she didn't -- she never steered me like that because really, once -- once I put myself to the task, it was me. I just -- I felt like -- at that point, I felt like she knew I wasn't going to get out, that I was probably -- she may not have known I was even going to get any time off. I don't know what the conversation with the U.S. attorney in California

Video Deposition of Michael Beckcom

1 and her was, but -- I don't know.

13:02:52 2 At that point I felt like, Wow, you know, I really put
3 myself on a fricking bind, and this is the thanks I get, you
4 know. So I felt like at that point she knew I wasn't really
5 going to get out, but she never put herself in a position to
6 make that known, that I would know, you know. It's just -- it's
7 just seemed evident to me that this was information she had.

13:03:17 8 **Q** Okay. So you felt like she wasn't straight with you when
9 she had said if you testify, you're going to get out?

13:03:23 10 **A** Yeah. I mean, this is not like a deal we made pre anything.
11 As things progressed and Prible confided information to me, I
12 wrote things down and sent it to her, you know. I said, you
13 know, what are they going to do for me for this?

13:03:45 14 **Q** And when you say you wrote things down and sent it to her,
15 did you take notes and mail them to her?

13:03:49 16 **A** I don't remember how I got them to her. I -- Prible told me
17 a bunch of shit, and I just wrote it all down. I wrote it all
18 down and got it to her. I don't remember the method of
19 transportation to her, to be honest with you.

13:04:04 20 **Q** Okay. You don't know if you mailed it to her? You don't
21 know -- but you took notes as you and Prible would talk?

13:04:09 22 **A** Not as we talked.

13:04:10 23 He pretty much confided everything to me, if I recall
24 correctly, on the yard. And I wrote down from knowledge, best I
25 could, everything he told me, and I got -- I don't remember how

Video Deposition of Michael Beckcom

1 I conveyed it to her. I don't remember how I got the -- I must
2 have mailed it, best I know. I might have gone through my case
3 manager. I don't recall.

13:04:33 4 **Q** Okay. Did she ever call you on Harpe's phone and have him
5 go out and find you?

13:04:40 6 **A** No. I don't recall ever being called, no.

13:04:44 7 **Q** Do you recall her -- or do you recall ever being called in
8 to a unit manager or counselor's office because you had a phone
9 call from Ms. Siegler?

13:04:55 10 **A** No. I don't remember that. I don't know if that happened.

13:04:58 11 **Q** Do you ever recall being -- did you ever speak with
12 Ms. Siegler on a unit manager or a counselor's phone while other
13 inmates were in the room with you?

13:05:09 14 **A** No.

13:05:10 15 **Q** You never spoke with her on the phone while Nathan Foreman
16 was in the room with you?

13:05:15 17 **A** No. There wouldn't be anybody else in the room.

13:05:19 18 **Q** It would just be you --

13:05:20 19 **A** Me and the unit manager.

13:05:21 20 **Q** -- and the unit manager?

13:05:23 21 **A** Correct.

13:05:23 22 **Q** And it's also important, when serving as an informant, to
23 make it look like the defendant trusted you enough to confess to
24 you; isn't that correct?

13:05:33 25 **A** Repeat that.

Video Deposition of Michael Beckcom

13:05:35 1 Q So when you're testifying -- or when you're working as an
2 informant, it's important to make it appear to the jury and to
3 the prosecutor that the defendant trusted you enough to confide
4 in you?

13:05:48 5 A Well, based on the information you give them, they -- they
6 have to make that judgment.

13:05:53 7 Q And there's certain rules that prosecutors have to follow
8 when working with informants that you're probably familiar with,
9 are you not?

13:05:59 10 A Certain rules that prosecutors have to work with?

13:06:02 11 Q Uh-huh. Have to follow.

13:06:04 12 A I don't know what those are.

13:06:05 13 Q For instance, it would be improper for a prosecutor to feed
14 you information about a crime?

13:06:08 15 A Oh, I could see that, yeah.

13:06:10 16 Q Yeah. Okay.

13:06:10 17 In your experience working as an informant, did you ever
18 encounter any prosecutor that didn't follow the rules?

13:06:16 19 A No.

13:06:17 20 Q They all followed the rules?

13:06:19 21 A Yeah.

13:06:20 22 Q Okay. None of them supplied you with details about a crime?

13:06:23 23 A No.

13:06:24 24 Q Okay. They didn't reach out to you about a particular
25 inmate? You reached out to them?

Video Deposition of Michael Beckcom

13:06:30 1 **A** Kelly Siegler is the only one I reached out to.

13:06:33 2 **Q** Okay. So you made contact with her first? She did not make
3 contact with you first?

13:06:37 4 **A** Correct.

13:06:38 5 **Q** Did most of your phone calls with her take place on a -- on
6 a BOP employee's phone rather than this public inmate phone?

13:06:48 7 **A** No. I mean, if I had her on my list, then I used my -- my
8 account to call her.

13:06:54 9 **Q** But you also --

13:06:56 10 **A** I remember making a couple of calls from Mr. Harpe's
11 office --

13:06:59 12 **Q** Uh-huh.

13:06:59 13 **A** -- but it wasn't a routine thing.

13:07:03 14 **Q** Okay. But you had spoken with her on the phone many times
15 leading up to this?

13:07:07 16 **A** I don't know -- I don't know if it was many times, but I had
17 spoken with her.

13:07:13 18 **Q** More than once?

13:07:16 19 **A** I could only assume at that point. I don't know. I don't
20 know how many times I actually spoke to her. There was no need
21 to speak over and over.

13:07:26 22 I mean, once Prible confided in me and I had information, I
23 gave it to her. So that was a matter of the wheels were in
24 motion.

13:07:34 25 **Q** Okay. What was the purpose of this photograph?

Video Deposition of Michael Beckcom

13:07:37 1 **A** Again, these are all Houston guys wanting to take a group
2 photo.

13:07:42 3 **Q** They were also all Houston guys that were trying to set up
4 Mr. Prible, right?

13:07:46 5 **A** Well, I didn't know that at the time, but I kind of surmised
6 that later on. That was a feeling I got.

13:07:55 7 **Q** And why'd you get that feeling?

13:07:57 8 **A** I don't know. It seems like everybody was kind of hanging
9 around all the time.

13:08:03 10 I guess you get a little hyper alert sometimes in prison.

13:08:09 11 **Q** Does the same Jesse Moreno ring a bell?

13:08:13 12 **A** Jesse Moreno. Moreno.

13:08:19 13 **Q** Moreno was a friend of Foreman's from the neighborhood.
14 Does that sound familiar to you?

13:08:25 15 **A** Man, I don't remember that.

13:08:28 16 **Q** He had worked with Ms. Siegler on other cases?

13:08:30 17 **A** Moreno did?

13:08:30 18 **Q** Moreno had.

13:08:32 19 Did you hear that or did you know that Moreno had given
20 Foreman's name to Ms. Siegler? Does that sound familiar to you?

13:08:38 21 **A** No.

13:08:40 22 **Q** So is it your testimony that you didn't know Prible until he
23 actually got to the yard?

13:08:44 24 **A** Yes. I -- I mean, I met him there.

13:08:49 25 **Q** When was the first time you met him? Do you recall meeting

Video Deposition of Michael Beckcom

1 him?

13:08:55 2 **A** It had to have been on the rec yard. That's the only place
3 you're going to interact with somebody, rec yard, chow hall. If
4 you don't live in the same unit with them, the only other place
5 you're going -- you're going to see them is on the rec yard.
6 That's the only free movement.

13:09:08 7 **Q** Was there talk on the yard, before Prible got there, about
8 checking him in once he got there?

13:09:18 9 **A** I don't recall having those conversations.

13:09:20 10 **Q** You don't recall discussing --

13:09:21 11 **A** No.

13:09:21 12 **Q** -- his impending arrival with anyone before he got there?

13:09:24 13 **A** I don't -- ma'am, I'm not trying to be an ass, but I really
14 don't remember.

13:09:28 15 **Q** Okay. So you're not denying that it happened?

13:09:31 16 **A** I can't. I don't remember it.

13:09:32 17 **Q** Okay. You can't deny it?

13:09:34 18 **A** No.

13:09:34 19 **Q** Okay. And people on the yard really believed that he killed
20 these -- these girls, right, that he killed these people?

13:09:44 21 **A** I don't know if they believed it.

13:09:47 22 **Q** Do you recall the first phone call you ever had with
23 Ms. Siegler, how it came about? You got her number from
24 Foreman, right?

13:09:55 25 **A** Yeah.

Video Deposition of Michael Beckcom

13:09:55 1 Q And you called her. And what did you tell her?

13:09:59 2 A The context of the conversation, I must have told her I had
3 information about Prible.

13:10:09 4 Q And did you tell her that you were Foreman's roommate?

13:10:12 5 A I don't know if that came up or not. I don't -- I don't
6 recall.

13:10:16 7 Q Okay. You don't know if she was aware that you were
8 Foreman's cellmate at any time?

13:10:20 9 A No. I -- I mean, she may have been, but I don't know.

13:10:24 10 Q Okay. So you called her, and you said you had information
11 about a case?

13:10:27 12 A Yeah.

13:10:28 13 Q Okay. And you mentioned that several times, "the wheels got
14 set in motion," and what do you mean by that?

13:10:35 15 A I had information for her. She came. We talked. Then, I
16 guess from that point on, it was see if I, you know, had anymore
17 information, I would give it to her.

13:10:47 18 Q Okay. And did she tell you anything about Prible's case?
19 Did she tell you anything about the evidence they had against
20 Prible?

13:10:57 21 A No. She was more interested in what I had --

13:11:00 22 Q Okay.

13:11:01 23 A -- you know, What -- what can you tell me? You tell me. I
24 remember that fucking line, "Well, you tell me."

13:11:10 25 Q And what exactly was she interested in, details about what

Video Deposition of Michael Beckcom

1 y'all had discussed?

13:11:15 2 **A** I guess to see if the valid- -- the validity -- you know,
3 the validity of my information matched whatever she had, you
4 know. She would know whether or not I was really talking to the
5 guy and if he was really telling me anything pertinent.

13:11:32 6 **Q** Was Ms. Siegler well known on the compound at FCI Beaumont?

13:11:38 7 **A** That was the first I'd ever heard of her, you know.

13:11:41 8 **Q** In your discussions with Ms. Siegler about this case, did
9 she ever tell you anything about the DNA evidence in this case?

13:11:52 10 **A** No.

13:11:52 11 **Q** Did she ever tell you that Mr. Prible's semen was found in
12 the victim's mouth?

13:11:58 13 **A** No.

13:11:59 14 **Q** Okay. Did you know that -- that that was the case?

13:12:05 15 **A** I think -- I think Jeff led me to believe -- whatever he
16 told me, I wrote down and gave to her. I can't remember word
17 for word conversations we had --

13:12:20 18 **Q** Okay.

13:12:21 19 **A** -- but he spit quite a bit of information out to me.

13:12:26 20 **Q** Okay. Did Ms. Siegler talk with you about any problems that
21 they had with the case against Mr. Prible, for -- for example,
22 the alibi witness? Did she talk with you about the alibi
23 witness?

13:12:38 24 **A** No. I don't think so.

13:12:40 25 **Q** Did she talk with you about the fact that there was no

Video Deposition of Michael Beckcom

1 physical evidence linking Mr. Prible to the murder?

13:12:49 2 **A** No. I don't recall that.

13:12:50 3 **Q** Did she talk to you about the fact that there wasn't a
4 motive?

13:12:56 5 **A** No.

13:12:57 6 **Q** Did she talk to you about the fact that the money had never
7 been found?

13:13:03 8 **A** Not to the best of my knowledge. No, ma'am.

13:13:05 9 **Q** Okay. Did she tell you that the murder weapon had never
10 been found?

13:13:10 11 **A** No.

13:13:10 12 **Q** So you never discussed these issues with Ms. Siegler?

13:13:15 13 **A** I don't recall. No.

13:13:16 14 **Q** Okay.

13:13:16 15 **A** I mean, he was just giving me information. I was giving it
16 to her.

13:13:20 17 **Q** In all, how many times do you think you spoke with
18 Ms. Siegler on the phone leading up to the trial?

13:13:31 19 Was it a pretty regular communication?

13:13:33 20 **A** No. There was no point in really a regular communication.

21 Once I made contact and I was on board and I had information, I
22 pretty much wrote it down, I believe, and got it to her, or I
23 may have called maybe three or four times. I don't remember.

13:13:51 24 **Q** And, in fact, you and Mr. Nathan Foreman took steps to
25 befriend Mr. Prible; isn't that -- isn't that right?

Video Deposition of Michael Beckcom

13:13:59 1 **A** In the beginning, we all met on the rec yard. I don't
2 remember who approached who initially. I think he kind of
3 wandered up in an area we were, and that was pretty much the
4 initial introduction.

13:14:17 5 **Q** Uh-huh.

13:14:23 6 **A** Yeah. That's basically how it started --

13:14:25 7 **Q** Okay.

13:14:25 8 **A** -- out in the rec yard.

13:14:28 9 In what context? I don't remember speaking with him about
10 it. I don't remember details.

13:14:32 11 **Q** Uh-huh.

13:14:33 12 **A** But I kind of got the indication, as we talked about
13 previously, that that group were all trying to do something.

13:14:42 14 **Q** Uh-huh. And, in fact, there -- in fact, you knew that they
15 were attempting to testify against Mr. Prible?

13:14:50 16 **A** Or others.

13:14:51 17 **Q** And you knew about the stories that they had -- or the
18 stories they were trying to --

13:14:55 19 **A** I never -- okay.

13:14:56 20 **Q** And you knew about what they -- the information they had on
21 Mr. Prible?

13:14:59 22 **A** I never had individual conversations with them as to what
23 they knew specifically, that I recall.

13:15:04 24 **Q** Uh-huh. But you're able to comment about -- you understood
25 whether or not they had credible information or not; isn't that

Video Deposition of Michael Beckcom

1 correct?

13:15:10 2 **A** Well, I don't know what would be considered credible. I
3 don't know what they specifically knew. I don't remember.

13:15:16 4 **Q** On line 15, Ms. Siegler asks, "What month was it that you
5 first heard about this case and learned my name?" And you
6 respond, "I didn't learn about your name until later, probably
7 the end of September, early October of 2001. Prior to that, I
8 had heard of the case just briefly, something about a guy coming
9 from the low charged with murder. I didn't really get too much
10 information on it, end quote.

13:15:40 11 Now, do you think, looking -- now that you've seen this
12 July 7th, 2001, article, that that might have been the reason
13 you knew that Mr. Prible was coming from -- was going to be
14 transferred from the low?

13:15:51 15 **A** No. I would take that as being yard talk.

13:15:55 16 **Q** Just someone on the yard knew?

13:15:56 17 **A** Inmate rumor mill.

13:15:58 18 **Q** Okay. Someone on the yard knew that he was coming --

13:15:59 19 **A** Yeah.

13:16:00 20 **Q** -- and y'all were talking about it?

13:16:01 21 **A** Yeah.

13:16:01 22 **Q** But he wasn't quite there yet?

13:16:04 23 **A** No. Obviously, not.

13:16:05 24 **Q** Okay. In that inmate yard talking, did it also -- was it
25 also said, during those conversations about this guy's about to

Video Deposition of Michael Beckcom

1 come over to low -- or to the medium, was it in the context of,

2 And Siegler is his prosecutor? Like, did you put Siegler --

13:16:23 3 **A** No.

13:16:23 4 **Q** -- and him together at that time?

13:16:25 5 **A** No, ma'am.

13:16:25 6 **Q** And not only did Mr. Foreman say he didn't hear Jeff
7 confess, neither did any of the other inmates that were --
8 neither did Carl Walker?

13:16:34 9 **A** No, he didn't.

13:16:35 10 **Q** He claimed that Prible -- I'll make the representation to
11 you that he never -- that he considered Herrero his friend, that
12 they were -- they didn't have any -- and that was the only
13 representation he ever heard Mr. Prible claim about it, but you
14 claim --

13:16:54 15 **A** Okay.

13:16:54 16 **Q** -- but you claim in your testimony -- testimony that they
17 had a sudden falling out.

13:16:59 18 **A** I'm basing it on what I was told by a man. Well, I mean,
19 what do you want me to say? You want me to unhear what I heard?

13:17:07 20 **Q** I want to talk really briefly also about your -- the
21 conversations that you and Mr. Foreman had regarding Mr. Prible.

13:17:18 22 Did Nathan Foreman tell you that he met with Kelly Siegler
23 and Bonds in August? Did he tell you about that meeting?

13:17:29 24 **A** I don't recall having that conversation with him.

13:17:32 25 **Q** Okay. Did Foreman ever ask you to go get information from

Video Deposition of Michael Beckcom

1 Mr. Prible?

13:17:43 2 **A** I -- I don't remember any terms like that being used. I --
3 I don't remember the conversation.

13:17:49 4 **Q** Okay. Did Foreman ever tell you any information about
5 Mr. Prible's case, specifics about his case?

13:17:58 6 **A** No. Not that I recall.

13:18:02 7 **Q** When Mr. Prible confessed to you, was Nathan Foreman
8 present?

13:18:06 9 **A** Yes, he was.

13:18:07 10 **Q** And, again, just to clarify from earlier, were you ever
11 present during other conversations with Mr. Gonzalez or Rafael
12 Dominguez or Mr. Walker about attempts to set Mr. Prible up to
13 confess?

13:18:29 14 **A** I don't recall having those specific conversations. I more
15 remember them being a little more hushed around me.

13:18:37 16 **Q** Okay. Did you participate in any conversations with them --

13:18:41 17 **A** Not that I --

13:18:42 18 **Q** -- about --

13:18:43 19 **A** -- remember.

13:18:43 20 **Q** -- Mr. Prible's case?

13:18:44 21 **A** Not that I remember. It was kind of me and Bo.

13:18:51 22 **Q** I believe you testified earlier that your first conversation
23 with Ms. Siegler was in October; is that correct?

13:18:56 24 **A** I believe that's what the records showed me.

13:18:58 25 **Q** Okay. Do you have any independent recollection today of

Video Deposition of Michael Beckcom

that conversation?

A Of the specifics of the -- no, ma'am.

Q Okay. Would your testimony on the record be the best reflection of that conversation?

A Yes, it would.

Q Did Ms. Siegler ever contact you by telephone?

A Not that I have any recollection of.

(Conclusion of video deposition.)

MS. MIRANDA: Your Honor, that concludes our deposition testimony.

THE COURT: Nothing from Ms. Siegler's deposition?

MS. MIRANDA: No, we don't. All of our edits were actually -- when we compared them, all of our edits were included in theirs.

THE COURT: Okay. So we just need to wait for Ms. Siegler's appearance?

MS. MIRANDA: Yes, Your Honor.

THE COURT: And we anticipate that will be around 2:00 our time?

MS. MIRANDA: Yes.

THE COURT: Okay. Thank you very much.

(Recess taken from 1:19 p.m. to 1:47 p.m.)

THE COURT: All right. Why don't we proceed.

Thank you for your availability, Ms. Siegler. Can you hear us okay?

Ms. Scardino Direct of Kelly Siegler

THE WITNESS: Yes, sir.

THE COURT: Okay. Ms. Scardino wants to inquire first.

THE WITNESS: Okay. Can y'all hear me okay?

THE COURT: Yes, we can. Thank you.

MS. SCARDINO: Yes. Can you hear me?

THE WITNESS: Okay. Yes.

KELLY SIEGLER, TESTIFIED:

DIRECT EXAMINATION

BY MS. SCARDINO:

Q Ms. Siegler, when did you find out about this evidentiary hearing and that you were going to be called as a witness?

THE COURT: Oh, yeah. We need to administer the oath. I'm sorry.

MS. SCARDINO: Sorry about that.

THE COURT: Just as a formality, let's swear you in, yes.

(Witness sworn.)

BY MS. SCARDINO:

Q Ms. Siegler, when did you find out about this evidentiary hearing and that you were going to be called as a witness?

A The first time I heard about it -- I don't remember the date, but it would have been the same day that I sent that e-mail to Tina Miranda.

Q That's February 27th?

Ms. Scardino Direct of Kelly Siegler

1 A Whatever that date was. I don't have it in front of me.

2 Q Okay. That's Exhibit 171 at page 10. It's dated
3 February 27th.

4 And the process server went to your home and your office
5 eight times and tried to deliver paperwork; is that correct?

6 A That's what I've seen paperwork stating. I wasn't aware of
7 that at the time.

8 Q So the person at your office, the receptionist, didn't tell
9 you that paperwork was left there?

10 A No. I don't -- I don't remember paperwork ever being left
11 at my office.

12 Q And your office, as listed with the State Bar of Texas, is
13 1200 Binz Street, Suite 1300; is that correct?

14 A Yes. I use that address, but I don't ever really go there
15 to do any work.

16 Q Okay. But that is your address registered with the state
17 bar?

18 A Correct.

19 Q And no one at your home ever gave you paperwork that was
20 left there by the process server?

21 A Somebody left some little stickies on my gate.

22 Q So are you --

23 A The little stickies said nothing -- the little stickies said
24 nothing about a process server or a court hearing.

25 Q So are you telling us that you didn't realize that we were

Ms. Scardino Direct of Kelly Siegler

1 trying to serve you to appear as a witness at this evidentiary
2 hearing?

13:50:03 3 **A** No. What I'm telling you is that what I first became aware
4 of anything else is going on with the case, I sent that e-mail
5 to Tina asking Tina what was going on, and after I talked to
6 Tina, I still didn't know for sure what was going on or when
7 anything was going to be happening.

13:50:19 8 And those dates that you're talking about when you were
9 allegedly trying to serve me, my husband was in the hospital,
10 and I was at the hospital a lot during those dates.

13:50:29 11 **Q** And what were those dates that he was in the hospital?

13:50:33 12 **A** He went in on a Friday -- I took him to the emergency
13 room -- and he came home either Tuesday or Wednesday. I don't
14 know which day that was. I'd have to look at a calendar.

13:50:42 15 **Q** Did you have any time between February 27th, when you first
16 heard about this hearing and that you were going to be called as
17 a witness -- between that date and Monday to reach out to the
18 attorney general and ask when you were needed in this courtroom
19 to testify?

13:51:03 20 **A** The e-mail to Tina, and Tina called me one day when I was
21 pulling into the parking lot at Memorial Hermann Hospital, and I
22 told her what was going on with my husband, and she said she
23 needed to talk to you, and she would get back with me. And
24 that's about the only conversation I had with Tina except for
25 trying to set up what we're doing right now.

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Q And you didn't have any time between the last week of March and this past Monday to respond to any of that paperwork left by the process servers?

A Again, I never got any paperwork. There were stickies left on my gate.

Q So your testimony is not that you were occupied by something and weren't able to respond, but that you didn't know that we were trying to serve you in this case. Is that your testimony?

A No, that's not what I said. What I said is I didn't know what was going on. I was waiting for Tina to call me to tell me exactly what and when I needed to do anything.

And I'm here. If you have any questions, I'm ready to answer them, if I can, and when you deposed me a year and a half ago, I tried my hardest to answer all the questions you had that day too.

Q Ms. Siegler, you had time to attend a *Cold Justice* panel the week of April 11th when we were trying serve you, didn't you?

A I didn't know you were trying to serve me then. I didn't know what was going on with the case. I was waiting to hear back what was going on with the case.

Q And you also had time to appear as the guest speaker at the Atticus Finch Day event in Bryan, Texas, on April 18th when we were trying to serve you, right?

A Again, I didn't know you were trying serve me that day.

Q But you didn't have time to respond to our process server?

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1 A I didn't know your process server was looking for me. I
2 wasn't at the office. I was in and out of the hospital. He
3 left stickies on my gate.

4 You should see the stickies. They say nothing about him
5 being a process server.

6 **THE COURT:** Okay. Well, I think -- I think --

7 A They're stick- --

8 **THE COURT:** I think we're -- reached a standoff on
9 this issue. Let's move on.

10 **MS. SCARDINO:** Okay.

11 **BY MS. SCARDINO:**

12 Q I took your deposition in October 2017. You remember?

13 A Yes, ma'am.

14 Q And you had not reviewed the file at that time. Do you
15 recall that?

16 A I do.

17 Q Have you reviewed the file in Mr. Prible's case now?

18 A No, ma'am. I don't -- I don't have access to the file.

19 Q And there was nothing present- -- preventing you from asking
20 the district attorney's office if you could review the file to
21 testify about how you had prosecuted Mr. Prible back in 2001,
22 2002, was there?

23 A I have not asked the district attorney's office to look at
24 the old file, no, ma'am.

25 Q Okay. You testified at your deposition that you knew

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1 Nathan -- you knew about Nathan Foreman from the Jason Morales
2 case. Do you remember that?

13:54:07 3 **A** Yes.

13:54:07 4 **Q** Now, you didn't -- you knew that Nathan Foreman wasn't
5 involved in the Jason Morales case, didn't you?

13:54:17 6 **A** I don't want to get confused, Ms. Scardino. I remember the
7 name. Whatever I said at my deposition, I don't want to get
8 confused today and say something incorrectly.

13:54:30 9 Nathan --

13:54:30 10 **Q** You didn't --

13:54:30 11 **A** -- Foreman is in the middle of all this. I don't remember
12 which case right now it was -- it started being in the middle of
13 first.

13:54:38 14 **Q** You didn't want to admit at your deposition that you learned
15 about Nathan Foreman from Jesse Moreno, did you?

13:54:45 16 **A** I think that is an inaccurate statement.

13:54:48 17 **Q** You talked about Mr. Prible's case with Moreno, didn't you?

13:54:54 18 **A** Say that again.

13:54:55 19 **Q** You talked about Mr. Prible's case with Jesse Moreno, didn't
20 you?

13:55:05 21 **A** I don't remember. Whatever I said in the deposition, if I
22 answered that question then, it would be the same answer today.
23 I don't remember.

13:55:12 24 **Q** Okay. I'll play the clip of that deposition.

13:55:14 25 (Video played as follows.)

Ms. Scardino Direct of Kelly Siegler

Question: "Jesse Moreno talked with you about

Mr. Prible's case and Mr. Herrero's case, correct?"

Answer: "He did."

BY MS. SCARDINO:

Q And you knew that Mr. Moreno was in the SHU with Nathan Foreman and Rafael Dominguez in FCI Beaumont, didn't you?

A Yes.

Q And you knew that's where they hatched their plan to inform on Hermelio Herrero and then Mr. Prible; isn't that correct?

A It is not. I disagree with the phrase "hatched their plan."

Q You knew that it was in the SHU when they discussed their plan to inform on Mr. Herrero and Mr. Prible; isn't that correct?

A It is not.

Q At your deposition, you claimed you didn't know what the word "SHU" was. Do you remember that?

A Yeah. I almost asked you again today.

Q But, in fact, you have heard that word before at your deposition, hadn't you?

A Well, I guess I heard it from you. "SHU," I don't -- are you spelling that S-H-U or S-H-O-E? I really don't know exactly what that means.

Q I'm spelling it S-H-U.

And, in fact, you had used that word, yourself, previously, hadn't you?

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13:56:38 1 **A** If I did, I don't remember.

13:56:45 2 **Q** At Mr. Prible's trial, when you were questioning Beckcom,
3 you said, on page -- volume 26, page 96, "What is the name --
4 the name of the person who caused difficulty for you that you
5 had placed in the SHU in Beaumont before you got to Houston?"

13:57:02 6 Does that refresh your recollection as to whether you were
7 familiar with the SHU?

13:57:08 8 **A** If you're reading -- if you're reading that from the
9 transcript, then obviously I did say it, but I still don't
10 remember exactly what it means. I'm sorry. I know it has to do
11 with the prison.

13:57:20 12 **Q** You also insisted at your deposition that Mr. Moreno was in
13 isolation and, therefore, couldn't have been in the same place
14 as Nathan Foreman. Do you remember that?

13:57:29 15 **A** At one point he was in isolation, but I don't remember when
16 in the deposition we were talking about.

13:57:35 17 **Q** Okay. I'll play the clip to refresh your recollection.

13:57:37 18 *(Video deposition played as follows.)*

13:57:37 19 **Question:** "These are the BOP housing records for
13:57:48 20 Nathan Foreman, and if you look on the second page,
13:58:00 21 nine lines from the bottom, it says that between
13:58:16 22 February 28th, 2000, and April 18th, 2001, that
13:58:22 23 Foreman was housed in BMM A-DES, just like we saw
13:58:29 24 with Mr. Moreno, correct?"

13:58:38 25 **Answer:** "They're not in the same place."

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Question: "Why are they not in the same -- why do you make that statement?"

Answer: "Because Jesse Moreno says in his letter he's in isolation. So wherever they're housed, it doesn't matter. Jesse's in isolation."

Question: "In the SHU, right?"

Answer: "I don't know what the SHU is. That's your word. I've never heard that before."

Question: "Okay. Would you agree that the documents say what they say?"

Answer: "I would agree that Jesse says he's in isolation, which means he's not living with anybody."

Question: "Okay."

Answer: "That's what the letter says. You -- these documents are from the prison, which you must understand better than I can, but that's not what Jesse says."

Question: "Okay."

Answer: "He's not with Nathan Foreman, according to his letter."

BY MS. SCARDINO:

Q In fact, Ms. Siegler, you knew that that was not true, didn't you?

A No. I think what I said to you that day is absolutely what I thought and still think today.

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Q Well, you were familiar with how segregation and how the segregated housing unit works over there in FCI Beaumont, weren't you, that -- and the isolation that they're talking about is not the same as solitary confinement?

A I am not. I'm not a federal prosecutor. I am not intimately familiar with how all that works. I know vaguely what it means, and that's about it.

Q So you did not realize that when they say they're in the hole or in the SHU, they're in segregation from general population, but they're in there with other people?

A No. And it sounds to me like, from what you just read back to me, I didn't know what the SHU was on deposition day, either.

Q Now, you know from your July 3rd, '01, interview with Moreno that they could talk to other people while they're in the hole. Didn't you learn that, then?

A What day was the interview?

Q July 3rd, 2001.

A I really don't remember what was said that day. That was a long time ago. I'm sorry.

Q Okay. I'll refresh your recollection with a short clip from that meeting.

(Audio played as follows.)

"Who was there when he said that to you that day, the first time you heard it?

"Ah, Dominguez and -- and Nathan Foreman.

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"Okay. What is Dominguez's whole name?"

"Rafael Dominguez."

"And he's here -- he was in Beaumont medium, too, at
The time?"

"Yeah."

"Where is he now?"

"He's still in Beaumont. See, when I was in the hole,
he went in -- he got in the hole first and charged
something, right, so [UI] so he goes in the hole and
tells me --"

"Dominguez?"

"Yeah, Dominguez. See I know Dominguez. We went to
school together, too. We're all from the
neighborhood."

"Okay."

BY MS. SCARDINO:

Q Now, does that refresh your recollection that Moreno told
you, at that July 3rd, 2001, meeting that Dominguez was already
in the hole when he got there and that the two of them were able
to talk about Herrero's case while they were in the SHU?

A I think we should let that tape speak for itself. It
doesn't refresh my memory about that conversation, no, ma'am.

Whatever the tape says is what happened that day, but
that's not helping me remember in any better detail all these
years later. I'm sorry.

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1 Q Okay. You recall I asked you at your deposition about that
2 August 8th, 2001, meeting with Nathan Foreman?

3 A I don't recall that, but you could have. If the deposition
4 transcript says you did, then you did.

5 Q And Mr. Dominguez was one of your testifying informants in
6 that -- in the Herrero case, right?

7 A Yes.

8 Q And you wrote him a Rule 35 for his assistance in that case,
9 didn't you?

10 A I think so, yes.

11 Q And at one point you and Johnny Bonds also considered using
12 Dominguez as a witness against Mr. Prible, also, didn't you?

13 A I don't remember that. We could have. I really don't
14 remember.

15 Q Okay. So you can't say yes or no? You just don't recall?

16 A Correct. Correct.

17 Q Exhibit 94, which I'm not sure that the witness can see from
18 where you are, but it's a NCIC -- a criminal history report for
19 Rafael Dominguez that was found in Mr. Prible's case file, and
20 in Johnny Bonds' handwriting, it has the word "witness" at the
21 top.

22 Does this sound familiar to you?

23 A Well, I -- I don't know.

24 Q Okay. Would this indicate to you, if -- what I just
25 described, would that indicate to you that you were considering

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1 using Mr. Dominguez as a witness against Mr. Prible?

1 4 : 0 3 : 1 5 2 **A** No, ma'am, not necessarily.

1 4 : 0 3 : 2 1 3 **Q** At your deposition, I spoke with you about Exhibit 48. It's
4 a witness voucher for a Rule 35 hearing for Jesse Moreno on
5 August 22nd, 2002, that you went to testify at. Do you recall?

1 4 : 0 3 : 4 0 6 **A** Okay. What was the question about that again?

1 4 : 0 3 : 4 2 7 **Q** Do you recall me showing you that witness voucher?

1 4 : 0 3 : 4 8 8 **A** On deposition day?

1 4 : 0 3 : 4 9 9 **Q** Yes.

1 4 : 0 3 : 5 0 10 **A** I don't remember right now, but if you say you did, then you
11 did.

1 4 : 0 3 : 5 6 12 **Q** Okay. You did, in fact, drive to Lafayette, Louisiana, to
13 testify at a Rule 35 hearing in Jesse Moreno's federal criminal
14 case on August 22nd, 2002; isn't that correct?

1 4 : 0 4 : 0 9 15 **A** I -- I did. You asked me if I remembered seeing a paper. I
16 did drive to Louisiana.

1 4 : 0 4 : 1 5 17 **Q** Okay. And at your deposition, you testified that a federal
18 judge told you that that hearing was confidential and that you
19 were never to talk about it or of it to anyone. Do you recall
20 that?

1 4 : 0 4 : 2 5 21 **A** That's -- I do.

1 4 : 0 4 : 2 6 22 **Q** And, in fact, you said at your deposition that the federal
23 judge told you not to even tell anyone that you testified. Do
24 you remember that?

1 4 : 0 4 : 3 3 25 (No response.)

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THE CASE MANAGER: We lost connection.

MS. SCARDINO: Okay. Can she hear me still?

THE COURT: Ms. Siegler, can you hear us?

THE CASE MANAGER: No. She dropped from the feed.

THE COURT: She do it intentionally? Can we tell?

THE CASE MANAGER: No.

MS. MIRANDA: She said she's trying to call back in.
She said she's getting help with the video connection.

THE WITNESS: Can y'all hear me?

MS. SCARDINO: Yes. Can you hear me?

THE WITNESS: Yes, ma'am. Sorry about that. The
internet is not great here.

MS. SCARDINO: Can we continue, Your Honor?

THE COURT: Yes, please.

BY MS. SCARDINO:

Q We were talking about the Rule 35 hearing at which you
testified for Jesse Moreno in Lafayette, Louisiana, on
August 22nd, 2002.

Who was the federal judge in that case?

A Oh, I don't remember.

Q Does Richard Haik sound correct?

A I really don't remember.

Q What exactly did the federal judge tell you that day about
not telling anyone about your testimony?

A That it was confidential and that I should not talk about it

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1 to anyone.

14:10:49 2 Q And he gave you this instruction at the hearing?

14:10:53 3 A He did.

14:10:54 4 Q And so it would be in the transcript?

14:10:57 5 A I would assume so.

14:10:58 6 Q And so for that reason, you never told anyone, before your
7 deposition in this case, that you had testified in Moreno's
8 Rule 35 hearing?

14:11:09 9 A Not that I remember.

14:11:10 10 Q You never disclosed it to Mr. Herrero's attorneys, right?

14:11:20 11 A It happened after the trial.

14:11:22 12 Q But don't you have a continuing obligation to disclose Brady
13 obli- -- Brady evidence even after a trial has been completed?

14:11:31 14 A It was told to the jury and the judge and the defense
15 lawyers during the trial. They knew all that was going to
16 happen.

14:11:37 17 Q They didn't know that you were going to personally testify
18 at his hearing, did they?

14:11:42 19 A Yes, they did.

14:11:43 20 Q You think that's in the transcript somewhere -- in the
21 Herrero transcript?

14:11:46 22 A Yes, ma'am.

14:11:48 23 Q And you never disclosed that you went to testify at this
24 hearing to Mr. Prible's attorneys, did you?

14:11:57 25 A I don't believe so, no.

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Q Even though you had discussed Mr. Prible's case with Jesse Moreno and Moreno had put you in touch with your original informant in the case, who was Nathan Foreman, correct?

A I -- I do not agree with that as being the way it happened, no, ma'am.

Q Okay. What do you disagree with in that statement?

A You're trying to make it sound like Jesse hooked me up with Beckcom.

Q I'm trying to make it sound -- I'm -- I'm actually telling you that Jesse Moreno hooked you up with Foreman; isn't that correct?

A I disagree with that too.

Q And even though the Rule 35 hearing in Lafayette was only two months before Mr. Prible's trial, you did not tell Mr. Prible's defense attorneys about it, did you?

A Jesse Moreno did not testify in Prible's trial.

Q And so is it your testimony that you only needed to reveal favors given to informants that actually testified against the defendant?

A That's not what I said.

Q Well, is that your understanding?

A No. That's not what I said.

Q You signed an affidavit in Herrero's state writ case on March 22nd, 2016. That's Exhibit 125. Do you remember that affidavit?

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A Not off the top of my head. I'm sorry.

Q Okay. And that was for Mr. Moreno's state writ case.

A Okay. I don't remember.

Q And you never mentioned in that affidavit your traveling to Lafayette for that Rule 35 hearing, did you?

A I don't remember what that affidavit was for, Ms. Scardino.

Q I re- -- showed it to you at your deposition. You don't remember?

A No, ma'am.

Q You testified at your deposition that you --

MS. MIRANDA: One -- one second. I'm sorry. Just to be clear: Did you say that it was Moreno's state case?

MS. SCARDINO: I'm sorry. Herrero's state case.

MS. MIRANDA: Okay. Because I think, if we're going to question her without seeing it, we need to be really careful about the names we're using because we're crossing back and forth between cases.

MS. SCARDINO: I agree, and I thought I said Herrero's state case.

MS. MIRANDA: You said Moreno.

MS. SCARDINO: Okay.

BY MS. SCARDINO:

Q So it's an affidavit that you signed for Herrero's state writ case. Do you remember that affidavit?

A No, ma'am. And I'm really getting very confused with these

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1 dates and different affidavits and the deposition and today, and
2 I have nothing in front of me. So I'm pretty confused.

1 4 : 1 4 : 2 3 3 Q Well, it would be definitely much better if you were here
4 live so we could show you the exhibits.

1 4 : 1 4 : 2 7 5 A And you did all that to me when you deposed me for an entire
6 day a year and a half ago. We've done all this.

1 4 : 1 4 : 3 6 7 Q You testified at your deposition that all your notes would
8 have been in the file and would have been viewable by -- by
9 defense counsel. Do you remember that?

1 4 : 1 4 : 4 4 10 A Yes.

1 4 : 1 4 : 5 9 11 Q Now, in a pretrial hearing on September 10th, 2002, on the
12 defense's Brady motion, I'm going to read to you from that.

1 4 : 1 5 : 1 1 13 Mr. Gaiser said, "We've been supplied with a written
14 statement that" -- "that he made" -- meaning Beckcom -- "and
15 been told by Ms. Siegler that that's the only written statement
16 they have."

1 4 : 1 5 : 2 2 17 And you responded, "That's correct, Judge... I've already
18 provided that to him, and it's still our position that any notes
19 that either myself or Johnny Bonds made when we went to visit
20 Michael Beckcom is work product."

1 4 : 1 5 : 3 9 21 So, Ms. Siegler, you lied at your deposition when you said
22 you didn't consider your notes to be work product, didn't you?

1 4 : 1 5 : 4 8 23 A No.

1 4 : 1 5 : 4 9 24 Q And you lied at your deposition when you said that all of
25 your notes had been disclosed to Mr. Prible's counsel, didn't

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1 you?

1 4 : 1 5 : 5 6 2 **A** No, ma'am.

1 4 : 1 6 : 0 7 3 **Q** Also at that pretrial hearing, the court asked you, "Is it
4 the State's intention to be a part of that process in and
5 recommending a Rule 35 reduction?"

1 4 : 1 6 : 2 2 6 You responded, "Yeah -- they tell me that the mere fact
7 that I write the letter means that I'm recommending it. I've
8 done one before, and I went to Louisiana and testified."

1 4 : 1 6 : 3 3 9 Now, you didn't tell the court at that time that the
10 Louisiana hearing was for Jesse Moreno, who you had spoken with
11 about Prible's case and had recruited you your original
12 informant in that case, did you?

1 4 : 1 6 : 4 7 13 **A** There was no need to at that point. And, again, Jesse
14 Moreno was not a witness in the Prible case.

1 4 : 1 6 : 5 3 15 **Q** Even though he spoke with you about the Prible case and got
16 you in touch with Nathan Foreman?

1 4 : 1 6 : 5 9 17 **A** I disagree with the way you phrased that question. That's
18 not how I remember it happening. Jesse Moreno was not a witness
19 in the Prible case.

1 4 : 1 7 : 0 9 20 **Q** At another pretrial hearing on October 11th, 2002,
21 Mr. Gaiser asked, "Finally, Judge, just so the record is clear
22 on this. When we initially had a hearing concerning discovery
23 with reference to Michael Beckcom, one of the orders the Court
24 issued was that the state furnish us" -- "furnish us with -- and
25 I believe the Court said that that report could be oral, an

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1 indication of when and how contact was first initiated by --
2 with regard to Mr. Beckcom and the dates of any contact with
3 him. If Ms. Siegler could reinform me on that regard, I would
4 appreciate it."

14:17:49 5 And you said: (Reading) The first time Beckcom contacted
6 me, it was by telephone. He called me. He got my name from
7 Nathan Foreman.

14:17:59 8 The Court asks, "Who's" --

14:18:01 9 **THE COURT:** Slowly. Slowly, now. Slowly.

14:18:04 10 **MS. SCARDINO:** Sorry.

14:18:05 11 **BY MS. SCARDINO:**

14:18:05 12 **Q** The Court asked, "Who's Nathan Foreman?"

14:18:06 13 And you responded, "Nathan Foreman is another inmate at FCI
14 Medium. What else did you ask me?"

14:18:13 15 Do you remember that exchange with the court?

14:18:16 16 **A** I do not, but if it's in the transcript, then -- then it
17 would be accurate.

14:18:20 18 **Q** Now, Nathan Foreman wasn't just another inmate at FCI
19 medium, was he? He was your original snitch in this case.

14:18:28 20 **A** I disagree with that completely.

14:18:31 21 **Q** You think he wasn't involved in this case as a snitch?

14:18:36 22 **A** As I stated over and over and over again at the deposition,
23 I did not use Nathan Foreman as a witness because I never
24 believed that he was credible. We went over this a lot of times
25 the day of the deposition, and you keep wanting to infer that I

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1 used Nathan Foreman in the Prible case. I did not.

14:18:55 2 Q Now, you remember Beckcom's testimony at trial, that Nathan
3 Foreman was a corroborating witness to every single piece of the
4 confession that he supposedly got from Mr. Prible?

14:19:08 5 A That's not exactly the way I would describe it, but the
6 transcript would speak for itself.

14:19:13 7 Q Yes, it will.

14:19:18 8 Now, you testified at length in the Temple case about your
9 understanding of the Brady rule. Did you testify truthfully in
10 that case?

14:19:25 11 A Yes, ma'am.

14:19:26 12 Q And Ms. Temple was murdered in '99, and you tried David
13 Temple for her murder in 2004. Do you remember that?

14:19:35 14 A That is not when I tried David Temple. I tried David Temple
15 in 2007.

14:19:39 16 Q Okay. The Herrera/Tirado murders happened in '99, and you
17 tried Mr. Prible for those murders in 2002, correct?

14:19:47 18 A I remember that the murders happened in '99. I do not
19 remember when Mr. Prible's trial was.

14:19:52 20 Q And so this was the -- this -- these two cases were during
21 the same general time period, right?

14:19:59 22 A Not really.

14:20:00 23 Q Well, did your understanding of the Brady rule change during
24 that time period or was it consistent?

14:20:08 25 A I don't understand your question. You're acting like the

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1 trials had something to do with each other, Temple's and this
2 one.

1 4 : 2 0 : 1 6 3 Q I'm asking you if your understanding of the Brady rule was
4 consistent during that time period that you tried these two
5 cases?

1 4 : 2 0 : 2 2 6 A Yes, ma'am.

1 4 : 2 0 : 2 3 7 Q Okay. And at Mr. Temple's state habeas hearing in 2014, you
8 testified, to your belief, that apparently favorable evidence
9 did not need to be disclosed if the state did not believe it was
10 true. Do you remember that?

1 4 : 2 0 : 3 6 11 A That has been so mischaracterized I don't even know how to
12 describe it. That was a long conversation. Your point is taken
13 out of context, and there was a whole lot more to that
14 discussion than what you're trying to tell this judge today. I
15 would say that transcript speaks for itself, but it's a long
16 conversation. It's not just that one line you're trying to pull
17 out of context.

1 4 : 2 0 : 5 9 18 Q And the Texas Court of Criminal Appeals Opinion would speak
19 for itself also?

1 4 : 2 1 : 0 3 20 MS. MIRANDA: Objection, Your Honor. At this point,
21 if she's trying to impeach the witness with, apparently, what
22 she considers prior bad acts, that's inadmissible under
23 Rule 404B.

1 4 : 2 1 : 1 2 24 MS. SCARDINO: It's not prior bad acts --

1 4 : 2 1 : 1 5 25 MS. MIRANDA: And if she's trying -- or if she's

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trying to establish inconsistent testimony, we haven't done that yet. If she's trying to impeach her with prior testimony, we haven't set the foundation to do that yet.

MS. SCARDINO: It's Rule 405, pattern and practice, Your Honor.

MS. MIRANDA: How -- how is it a pattern or practice? I don't believe that's been established, at all, in this case.

MS. SCARDINO: We have Brady -- very similar Brady violations that we've alleged in this case.

MS. MIRANDA: I don't believe -- alleging a Brady violation does not make them similar, Your Honor, and I don't believe that having been found to have committed Brady allegation -- or violations in another case makes that a pattern or practice.

THE COURT: Why don't you ask about the specific incidence, and I think I can draw my own conclusion about whether there's been inconsistency. Just ask about the specific incident you're worried about.

MS. SCARDINO: Okay.

BY MS. SCARDINO:

Q Okay. Well, presumably, in every case you prosecuted, you believe the defendant was guilty, right?

A Yes, ma'am.

Q So it would stand to reason that anyone tending to contradict that belief would, in your view, not be credible,

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wouldn't you agree?

A I don't understand that question.

Q Okay. Well, your practice of not revealing your communications with an incredible witness, or even the existence or identity of that witness would result only in your disclosing to defense counsel evidence that bolstered your case, wouldn't it?

MS. MIRANDA: I'm going to object to this line of questioning, Your Honor.

THE COURT: Yeah. I think you're -- you're -- you're being unnecessarily inquisitorial. Just -- if there's an issue of her not disclosing favorable testimony, ask about that.

MS. SCARDINO: Okay.

BY MS. SCARDINO:

Q And, specifically, Nathan Foreman. Nathan Foreman was the nontestifying but corroborating evidence to Beckcom's confession story, wasn't he?

A I disagree with that. Nathan Foreman was not a witness in Jeffrey Prible's trial.

Q Now --

THE COURT: I think -- I think the question is whether Mr. Foreman, whether you found him credible or not, might have had some information that would have been to Mr. Prible's advantage for his lawyers to have.

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Do you -- do you recall anything like that concerning Mr. Foreman? Was there anything about his narrative, however incredible you found it, that was favorable for Mr. Prible?

THE WITNESS: No, sir, there was not. And I believe that Mr. Foreman was not credible, and I think that Ms. Scardino and I talked about that at length the day of the deposition. I don't believe he was credible, which is, among other reasons, why he was not a witness in the Prible case.

THE COURT: But is it not possible someone could be, in your view, not believable, but be narrating information that was favorable to the accused?

THE WITNESS: Yes, sir. I get that. Yes, sir, I understand that. That did not happen with Nathan Foreman.

THE COURT: Okay.

BY MS. SCARDINO:

Q Even though his name appeared throughout Mr. Beckcom's testimony as being present to everything that he heard about the confession?

A I don't remember what Michael Beckcom testified about at the trial in regards to the presence of Nathan Foreman. The transcript would speak for itself. That doesn't necessarily mean that I believed that he was -- because he's standing there, it doesn't mean he's credible. Because he's standing there, it doesn't mean he has information. And even if he was standing there, I never used him as a witness in the Prible trial.

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Q Okay.

MS. SCARDINO: Your Honor, I pass the witness.

THE COURT: Okay.

Ms. Miranda?

CROSS-EXAMINATION

BY MS. MIRANDA:

Q Ms. Siegler, can you hear me?

A Yes, ma'am.

Q When you originally got involved in this case and took your initial look at the evidence, did you believe there was enough evidence to proceed with this case?

A Yes, ma'am.

Q Were you looking for an informant?

A No, ma'am.

Q All right. And then you talked a little bit about your interview with Jesse Moreno. Do you recall interviewing him on July 3rd?

A I don't. If -- is that the tape that y'all have? That speaks for itself. That's all I can remember from that day.

Q All right. And would you have -- would there be parts of that interview that are not recorded on that tape?

A No. The tape is the tape. There's nothing else.

Q So there were no substantive conversations that you had with Mr. Moreno that day that are not recorded on that transcript?

A No.

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Q Now, when you were filing charges against Mr. Prible, did you know at that time that Mr. Foreman wanted to inform against Mr. Prible?

A I don't remember. I don't think so, but, again, Mr. Foreman was never a credible witness.

Q Okay.

A It wouldn't have mattered. I was never going to use Nathan Foreman.

Q All right. Thank you.

Were you -- when you made charges against Mr. Prible, were you relying, in any way, on any kind of informant testimony?

A The probable cause affidavit that should be in the file is the evidence that I believe we had at that time, and I also believe, at that time, was sufficient to go forward with.

Q Do you recall filling out the detainer paperwork in this case to move Mr. Prible from federal custody back to Harris County?

A Oh, I don't know if I filled that out or if Kim Bryant, the lady at the DA's office who was in charge of all that kind of paperwork, filled it out.

Q And when you say, "filled it out," did you eventually sign that paperwork?

A I think we signed it, and Kim Bryant did all of the fill-in-the-blank paperwork part.

Q All right.

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MS. MIRANDA: Can I have a moment, Your Honor?

THE COURT: Yes. Sure.

BY MS. MIRANDA:

Q One moment, Ms. Siegler.

Now, I understand that you can't see this, but I'm going to put it up so that the Court can see it.

Now, this detainer paperwork was sent by Bert Graham. Who was Bert Graham?

A He was the first assistant at that time, and he was Kim Bryant's boss.

Q All right. And --

A So, in effect, my boss too.

Q Okay. And this paperwork to transfer Mr. Prible was addressed to the FCI unit low. Do you recall that?

A That sounds right. I mean, there were -- there was low, medium and high in Beaumont. I remember that.

Q Okay. So if this paperwork was addressed to Mr. Prible at FCI Beaumont low, is that because that was where your understanding was of where he was at the time?

A Yes.

Q Did you give Nathan Foreman or any other inmate at FCI Beaumont information about Mr. Prible's case?

A No.

Q Did you instruct or encourage Nathan Foreman, Michael Beckcom or any other FCI Beaumont to obtain information against

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Mr. Prible?

A I did not.

MS. MIRANDA: I'll pass the witness.

THE COURT: Ms. Siegler, this is Keith Ellison. I had a few questions.

THE WITNESS: Yes.

THE COURT: To the best of your recollection, in how many capital cases did you use as witnesses prison inmates who were in the same facility as the accused?

THE WITNESS: Judge, right now I'm just thinking of this one.

I think it's just this one. I'd have to go through the list. Is there -- is there a certain named defendant that you're thinking of?

THE COURT: No. No. No. It's not a trick question. I just wondered if there was a certain protocol to using prison inmates as witnesses. It seems, to me, that their incentive for wanting to provide information is very high, and there were liabilities, at least -- at least in question.

THE WITNESS: Yes, sir. I would agree with all that.

THE COURT: And I'm just wondering why -- if this is the only case you used it, why you thought the dimensions of this case made it particularly appropriate to use Mr. Beckcom.

THE WITNESS: This is what I'll say, Judge: I -- I thought long and hard about that, and I remember thinking to

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1 myself, There are five victims here. I believe that the case
2 against Jeffrey Prible was strong enough for a jury to convict,
3 but I did not want to live the rest of my life not using Michael
4 Beckcom and maybe one juror or two jurors having a little bit of
5 doubt and telling me that, and then regretting for the rest of
6 my life and career that I didn't use an inmate.

1 4 : 3 1 : 0 2 7 I thought I had enough, but I -- I wanted to be sure.
8 I wanted to make sure that I did all that I needed to in this
9 case.

1 4 : 3 1 : 1 1 10 **THE COURT:** Ms. Siegler, I'm absolutely sympathetic
11 with the role you were given in prosecuting capital cases. My
12 empathy is broader than that. I feel sorry -- or at least
13 empathetic with anyone who's involved in any capital case, and I
14 feel very empathetic now with Ms. Miranda and Ms. Scardino and
15 even with myself.

1 4 : 3 1 : 3 3 16 The stakes could not possibly be higher. The proof is
17 seldom clearcut, and we all face the eventuality of living the
18 rest of our lives with an incorrect decision. I fully
19 understand that.

1 4 : 3 1 : 4 9 20 But I'm -- know less about the case than you did --
21 you do, and I came to the case very late. But we've heard from
22 Ms. Foreman -- Mr. Foreman this week, and he -- he stated
23 forthrightly and without qualification that Mr. Beckcom was
24 making up this story about Prible's involvement with the
25 murders. He thought Beckcom was -- was just a fabulist, came up

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1 with a story.

1 4 : 3 2 : 2 3 2 And I guess I didn't take the same -- I didn't have
3 the same ration you did to Mr. Foreman. It was not obvious to
4 me that he was unbelievable or perjurious. So we're left with
5 that. We have Mr. Beckcom's word, and it's entirely
6 controverted by Mr. Foreman, both of whom have serious criminal
7 records.

1 4 : 3 2 : 4 9 8 And it just leaves --

1 4 : 3 2 : 5 1 9 **THE WITNESS:** I'm just --

1 4 : 3 2 : 5 1 10 **THE COURT:** Excuse me. Go ahead.

1 4 : 3 2 : 5 2 11 **THE WITNESS:** I can say this, Judge: There are --
12 wow. If Tina Miranda had the time, there are so many defense
13 lawyers and prosecutors who could speak to Nathan Foreman's
14 credibility. I remember one day leaving the -- the federal
15 facility over there in downtown when we talked to Nathan
16 Foreman, walking out -- I think it was with Johnny Bonds --
17 thinking to myself, Man, he's -- he's -- he's a good liar.

1 4 : 3 3 : 2 3 18 And if you just heard him the one time, I could
19 understand why you would think what you do, but when you know
20 the whole history of Nathan Foreman -- and I'm not trying to say
21 that Michael Beckcom is a stellar witness by any means, but
22 Nathan Foreman is in a category all by himself. I really do
23 believe that.

1 4 : 3 3 : 4 0 24 **THE COURT:** Well, I will say, in support of what
25 you've just said, we did hear by deposition from Mr. Bonds, and

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he -- he was thoroughly unimpressed with --

THE WITNESS: Yeah.

THE COURT: -- Foreman, agreed with your profile of him wholeheartedly about --

THE WITNESS: It's almost -- it's almost funny that -- that Nathan Foreman is -- is the person in the middle of your hearing now causing all this because of all the inmates that I've ever dealt with, he's at the top of the list for being not believable.

THE COURT: Well, he may be an extreme example, but in a lot of criminal cases, we're dealing with witnesses who -- who are not figures of moral probity. That's one of the reasons criminal jurisprudence is so very difficult.

We had a lot of testimony this week about a photograph -- a group photograph taken that included Mr. Beckcom and Mr. Prible and others who had some part, however minor, in this story. Did you have anything -- did have you any advanced knowledge of a photo being taken or did you ask for a photo to be taken to show anything --

THE WITNESS: That -- that's the picture, something around -- about Thanksgiving with somebody's mother there. I remember Ms. Scardino asking about that at the deposition, and I remember seeing it before, but I don't remember who brought it up or showed it to me and all that.

I know what you're talking about, but I don't remember

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the beginning of the story.

THE COURT: And you didn't know anything in advance about that photograph being arranged or anybody who --

THE WITNESS: No. No, sir.

THE COURT: Did -- in terms of whether this case was worthy of prosecution without Mr. Beckcom, did you ever find the murder weapon? I mean, I would have thought, if Mr. Prible was, in fact, the right defendant, somewhere in the home, which you got -- which the authorities got to very quickly, there would be -- there would be the murder weapon.

THE WITNESS: Judge, I don't remember. I would hope that that would be in my opening statement or final argument addressing that fact. I want to say that -- that there was paperwork saying he had the right caliber of murder weapon, but finding the gun itself, I don't think we found it, but I'm not sure, sir. I'm sorry.

It should be in the -- it should be in the transcript. I feel like that would have come up.

THE COURT: Okay. But it was a cold case when you got this information from Mr. Beckcom and decided to seek an indictment?

THE WITNESS: Yes, sir.

THE COURT: And you never relayed any information to any of the inmates about what you knew about Mr. Prible's case?

THE WITNESS: No, Judge. You know, that -- that is --

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1 that allegation from the defense is insulting, and I can't even
2 tell you how that makes me feel, that people would think that or
3 say that or believe that. I was a prosecutor my whole career.
4 I love that job, and to think that I would do something like
5 that and that they can just throw that out there and tell the
6 *Chronicle* every chance they get so it'll be out there even more,
7 I don't know what to do.

1 4 : 3 7 : 1 9 8 I don't know what to say. I don't know how to stop
9 it, but I'm telling you, sir, that is a lie, and that never
10 happened.

1 4 : 3 7 : 2 8 11 **THE COURT:** Given that this case was cold, there had
12 been no indictment, and given that you never used a prison
13 inmate to make a capital case before, it just -- this puts an
14 awful lot of gravity on the testimony of Mr. Beckcom. He was
15 the difference between bringing an indictment and not bringing
16 an indictment.

1 4 : 3 7 : 5 0 17 **THE WITNESS:** But, Judge, he wasn't. He wasn't the
18 difference. He wasn't the difference.

1 4 : 3 7 : 5 4 19 **THE COURT:** Well, tell me why not. I thought we
20 agreed it was a cold case.

1 4 : 3 7 : 5 9 21 **THE WITNESS:** It was a cold case, but I believe there
22 was enough there for an indictment and a conviction even without
23 Michael Beckcom. I believed that, but I can't -- I can't make
24 that automatically that 12 jurors are going to agree with me.

1 4 : 3 8 : 1 4 25 I believed there was enough without Michael Beckcom,

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1 but I didn't want to run the risk that 1 of 12 jurors might wish
2 that there was a little bit more, and I decided, because in my
3 opinion I didn't need it, I didn't put him on.

1 4 : 3 8 : 3 0 4 And there could have been other death penalty cases
5 where I used another inmate, I just can't think of them right
6 now.

1 4 : 3 8 : 4 3 7 **THE COURT:** And Mr. Beckcom has testified that in the
8 end, he didn't get anything out of having talked to you and
9 talked with Mr. Bond. That he didn't get a time cut; he didn't
10 get anything.

1 4 : 3 8 : 5 6 11 Is that true?

1 4 : 3 8 : 5 9 12 **THE WITNESS:** I believe it is, sir.

1 4 : 3 9 : 0 1 13 **THE COURT:** Did you try to get him a time cut or
14 anything like that?

1 4 : 3 9 : 0 4 15 **THE WITNESS:** I wrote a letter, and I think that y'all
16 have a copy of that letter, the same -- the same letter.

1 4 : 3 9 : 1 3 17 **THE COURT:** Okay. I don't have any further questions.
18 Does anybody else have any follow-up questions?

1 4 : 3 9 : 1 9 19 *(No response.)*

1 4 : 3 9 : 2 0 20 **THE COURT:** Thank you very much for your availability,
21 Ms. Siegler. I guess we're done. Thank you.

1 4 : 3 9 : 2 5 22 **THE WITNESS:** Yes, sir. Thank you.

1 4 : 3 9 : 3 0 23 **THE COURT:** Any further witnesses?

1 4 : 3 9 : 3 2 24 **MS. MIRANDA:** No, Your Honor.

1 4 : 3 9 : 3 3 25 **THE COURT:** Any --

14:39:34 1 **MS. SCARDINO:** No, Your Honor.

14:39:34 2 **THE COURT:** Any rebuttal? No.

14:39:36 3 **MS. SCARDINO:** No.

14:39:36 4 **THE COURT:** How would you like to proceed from here?
5 Do you want to make closing arguments? Do you want to submit --
6 I assume you'll be submitting post-hearing briefs.

14:39:43 7 **MS. SCARDINO:** Yes, Your Honor. Which would you
8 prefer, closing argument or --

14:39:47 9 **THE COURT:** Well, it's not one or the other. I mean,
10 if you want to make closing arguments, we can do that.

14:39:51 11 **MS. SCARDINO:** Okay.

14:39:51 12 **THE COURT:** But I would like -- I would like
13 post-trial -- post-hearing briefs, in any event.

14:39:55 14 **MS. SCARDINO:** Okay.

14:39:57 15 **THE COURT:** I mean, I'm taking this very seriously,
16 and it's -- obviously, the stakes could not be higher.

14:40:02 17 **MS. SCARDINO:** Right. Okay, Your Honor.

14:40:04 18 **THE COURT:** You both see the case so differently,
19 it's -- and I respect you both. So it's -- I'll take all the
20 help I can get.

14:40:10 21 **MS. SCARDINO:** Okay. I would like to make a closing
22 argument, Your Honor.

14:40:13 23 **THE COURT:** Let's take a ten-minute break.

14:40:15 24 **MS. SCARDINO:** Okay.

14:40:15 25 *(Recess taken from 2:40 p.m. to 2:52 p.m.)*

1 4 : 5 2 : 0 0 1 **THE COURT:** Keep your seats. That's all right.

1 4 : 5 2 : 3 1 2 You ready?

1 4 : 5 2 : 3 2 3 **MS. SCARDINO:** Yes, Your Honor.

1 4 : 5 2 : 3 3 4 **THE COURT:** Please proceed.

1 4 : 5 2 : 3 4 5 **MS. SCARDINO:** Okay. Your Honor, what we have seen
6 this week in this courtroom is an officer of the Court who has a
7 brazen contempt for the rule of law. I don't have to tell you.
8 You saw it for yourself firsthand when Ms. Siegler refused to
9 show up in this courtroom and testify in that seat (indicating).

1 4 : 5 2 : 5 1 10 And when she did finally agree to make herself
11 available for questioning, she did so on her terms from her --
12 where her telephone -- television show is filming, in the
13 comfort of her room. The rest of us heeded your orders, Judge.
14 We were ready. We came prepared on Monday and Tuesday for the
15 hearing. We came back today.

1 4 : 5 3 : 1 0 16 My client has been sitting in a cell on death row in
17 solitary confinement for 23 hours a day for 17 years, and
18 Ms. Siegler was too busy on her television show to come sit in
19 that chair and answer questions about how she prosecuted this
20 case. Over and over again in this courtroom we saw how
21 Ms. Siegler had lied. Just as she did in the Temple case, many
22 of these lies were by omission and by concealing key evidence.

1 4 : 5 3 : 4 0 23 For example, she presented the grand -- the Herrero
24 and Prible cases to the grand jury on the same day, to the same
25 grand jury. She did not tell that jury that there were

1 overlapping informants in those two cases. She wrote a Rule 35
2 letter on Foreman's behalf for his assistance to her, to his --
3 his Assistant U.S. Attorney Batson, and never in that letter did
4 she mention to Ms. Batson that Nathan Foreman lied to her.

1 4 : 5 4 : 1 4 5 She wrote a letter to Jesse Moreno's U.S. attorney.
6 She said in it Moreno has always been truthful. She didn't tell
7 him that Moreno had lied to her about Herrero confessing in
8 December 1999 in the presence of Moreno, Foreman and Dominguez.
9 She lied to Moreno's federal judge when she left out the part
10 about how Moreno had lied to her about that December 1999
11 confession.

1 4 : 5 4 : 4 7 12 When she signed that March 22nd, 2016, affidavit in
13 Herrero's state writ case, she didn't mention, she conveniently
14 left out that she had driven to Lafayette, to federal court, to
15 testify in person on Moreno's behalf and get him let out of
16 prison -- a 78-month sentence reduced to 77 -- or to one month.

1 4 : 5 5 : 1 4 17 She lied to the trial court in Mr. Prible's pretrial
18 hearings regarding discovery. She lied to Mr. Gaiser at those
19 hearings. She concealed key facts from Mr. Prible's jury in
20 opening argument.

1 4 : 5 5 : 2 8 21 Her timeline was that she told the jury: (Reading)
22 You will also learn from the evidence that before this state,
23 me, ever knew of the existence of Michael Glen Beckcom, these
24 capital murder charges were already filed on Jeff Prible.

1 4 : 5 5 : 4 8 25 But what she didn't tell the jury was that she had

1 gotten the name of her original informant in the case, Nathan
2 Foreman, before charges were filed against Mr. Prible and that
3 Beckcom was Foreman's cellmate. She also concealed -- sorry.
4 This is also to that -- to that end.

1 4 : 5 6 : 0 8 5 At her testimony -- or Michael Beckcom's testimony at
6 trial, she asked him: (Reading) Where were -- where was he --
7 Mr. Prible -- when he first found out about the fact that he was
8 charged with capital murder out of this case in Harris County?

1 4 : 5 6 : 2 2 9 "I believe he was at the low in Beaumont."

1 4 : 5 6 : 2 5 10 Question: "And then they transferred him to the
11 medium?

1 4 : 5 6 : 2 7 12 "Correct.

1 4 : 5 6 : 2 8 13 "Which is when you get to know him?

1 4 : 5 6 : 3 0 14 "Yes."

1 4 : 5 6 : 3 2 15 He [sic] never, again -- she never told the jury about
16 her previous conversations with his cellmate, Nathan Foreman.

1 4 : 5 6 : 4 8 17 She -- she sat silently by while her cocounsel,
18 Wisner, tells the jury: (Reading) The first thing that's done
19 to get these two people together are charges are filed. When
20 charges are filed, an affidavit accompanies those charges. So
21 that's the first thing that does. That's the first thing that
22 gets Beckcom and Prible into motion to meet each other.

1 4 : 5 7 : 0 8 23 That's not the first thing that got Beckcom and Prible
24 into motion to meeting each other. Beckcom learned about
25 Prible's case from Mr. Foreman, who had already been speaking to

1 Ms. Siegler about it.

1 4 : 5 7 : 2 3 2 And Mr. Wisner continued: (Reading) Then and only
3 then is this defendant taken from one of those two lower prison
4 units at Beaumont to medium when he meets Beckcom. Now, think
5 this through with me. Let's assume Beckcom is the most evil,
6 devious, cunning person in the world, and as soon as he sees
7 Jeff Prible walk through the door at Beaumont medium, he starts
8 rubbing his hands together and going, Man, this is great. I
9 just got me a get-out-of-jail-free ticket.

1 4 : 5 7 : 4 8 10 And Mr. Wisner says this sarcastically, but the
11 jury -- what the jury didn't know is this is exactly what
12 happened.

1 4 : 5 7 : 5 8 13 Ms. Siegler also concealed from Mr. Prible's jury what
14 she had learned from Pam McInnis about semen lasting for
15 72 hours in the mouth. And she said in her opening statement
16 that: (Reading) Semen goes away in minutes. It goes away with
17 a small swallow. That's what the evidence is about in this
18 case. And you're going to know from the testimony all about
19 what kind of a man could ejaculate in a woman's mouth after he
20 executed her husband minutes before he executed her.

1 4 : 5 8 : 3 8 21 And she sat by while Wisner supported Mr. Watson, the
22 DNA expert's testimony. He says: (Reading) There is no way in
23 the world that that semen wasn't deposited either moments before
24 or seconds after Nilda died. There is no way that semen is not
25 the semen of somebody who sexually assaulted her just moments

1 before or moments after she died.

1 4 : 5 9 : 0 4 2 Ms. Siegler sat by and let him argue that to the jury,
3 and all the while, there's a note in her file, the 72 hours
4 note.

1 4 : 5 9 : 1 6 5 And again, Mr. Wisner, in his closing argument,
6 states: (Reading) I would suggest to you that what the evidence
7 indicate is that the defendant, after killing Steve, forced
8 Nilda to orally copulate him at gunpoint and executed her as
9 soon as he finished. As horrific as that sounds, that is the
10 only logical conclusion that you can draw from that evidence.

1 4 : 5 9 : 3 6 11 But, Your Honor, that's not the only logical
12 conclusion you could draw from that evidence, and they knew
13 it -- or Ms. Siegler knew it because that 72 hours note was in
14 her file the whole time.

1 4 : 5 9 : 5 1 15 Ms. Siegler also vouched for the credibility of her
16 star witness, Michael Beckcom, even though, according to his
17 story, Nathan Foreman, the witness she says she did not believe,
18 was there every step of the way for the confession. She said in
19 her closing: (Reading) Is there any evidence in this trial that
20 Michael Beckcom got any facts about what happened anywhere
21 except out of the mouth of this defendant? All of Mr. Gaiser
22 and Mr. Wentz's questions and hypotheticals and hopes and
23 desires in the whole wide world do not amount to a hill of beans
24 because there ain't no evidence that Michael Beckcom ever had
25 anybody, anywhere, any paper, any newspaper, any cop, any TV

1 show tell him anything about the case -- this -- the facts of
2 this case except for Jeff Prible.

15:00:40 3 And all the while she had, hidden in her work product
4 file, letters from three -- at least three other inmates
5 offering to testify about Mr. Prible's case and explaining that
6 they were talking about his case together on the yard. And she
7 also knew that she had been talking to Beckcom's cellmate,
8 Michael -- or Nathan Foreman for months before Prible's trial.

15:01:05 9 And this is what Mr. [sic] Siegler told you today.
10 She argued that: (Reading) Those families, the victims'
11 families, had a right to have a jury know all of the evidence
12 that there is, even if there was a witness like Michael Beckcom.
13 She said, and if there is a witness who knows the very details
14 of exactly how a crime happened, and the state is too lazy or
15 too stupid or too insensitive to talk to that witness and do
16 their utmost to bring all of the evidence to a jury, for a jury
17 to decide one day, whether or not they believe it, then that
18 would be a tragedy. You try telling those people, Oh, I just
19 blew off Mike Beckcom. That's crazy.

15:01:47 20 Your Honor, it's not crazy. Ms. -- Ms. Siegler,
21 today, stated that she didn't feel that she could win a
22 conviction without Mr. Beckcom's testimony.

15:02:07 23 And, Your Honor, one of the most disturbing pieces of
24 this case and pieces of the trial is how Ms. Siegler didn't just
25 use Beckcom to testify that he heard a confession. She used

1 Beckcom -- she took him through a highly scripted and
2 choreographed direct examination and had him explain away all of
3 the problematic aspects of the state's case against Mr. Prible.

15:02:35 4 For example, concerning the DNA evidence in
5 Mr. Prible's story of consensual sex, she asked Beckcom:
6 (Reading) What did you say to him when the defendant told you
7 they had DNA on the girl?

15:02:51 8 (Reading) I said, Well, that's pretty serious, you
9 know. You're pretty -- you're through right there.

15:02:57 10 (Reading) What did she -- what did he say back to you?

15:03:02 11 (Reading) Answer: He said, Well, everybody knew I was
12 having an affair with her. So he made it -- he painted a
13 picture to me like it was common knowledge that he was having an
14 affair with this girl.

15:03:13 15 And later during trial, she asked Mr. Beckcom:

16 (Reading) I want to direct your attention now to the DNA. Did
17 you ever make any -- did you ever make any comment to Mr. Prible
18 about your opinion of the DNA evidence?

15:03:28 19 (Reading) Answer: Yeah.

15:03:30 20 (Reading) Question: What did you say?

15:03:33 21 (Reading) Answer: I pretty much told him you're
22 through if they've got DNA on the body.

15:03:39 23 (Reading) Question: And what was his comment back to
24 you in regard to that?

15:03:43 25 (Reading) Answer: Everybody knew they were messing

1 around. So that was his justification. That was going to solve
2 it.

15:03:54 3 Concerning the missing murder weapon, Your Honor, the
4 murder weapon was never found in this case.

15:03:59 5 **THE COURT:** That's what --

15:04:00 6 **MS. SCARDINO:** That was a big problem the state had.
7 And she asked Beckcom: (Reading) Question: I want to direct
8 your attention right now to a conversation you had with this
9 defendant when he talked about, in regards to the weapon, the
10 asphalt business.

15:04:14 11 Mr. Beckcom responds: (Reading) Well, it actually
12 came out later just in passing. It was something that you
13 almost didn't catch because at one point, when I actually became
14 interested in this and decided what I was going to do, I began
15 prodding him into conversations at times. So I would ask him,
16 Well, tell me about the evidence. What did you do here? What
17 did they have here? And so the only thing I told him, Well,
18 they don't have the murder weapon. That's good. You sure it
19 can't be found? And in passing he said something about, Well,
20 that's -- asphalt's good sometimes for hiding things.

15:04:50 21 Your Honor, concerning Mr. Prible's alibi witness,
22 you'll recall the neighbor that saw the victim --

15:04:56 23 **THE COURT:** Yeah.

15:04:56 24 **MS. SCARDINO:** -- dropping Mr. Prible off at his home.
25 And he said -- or she asked Mr. Beckcom at trial: (Reading) Did

1 the defendant ever tell you something about a witness that he
2 said he had about that night?

15:05:11 3 Mr. Beckcom said: (Reading) Yes, he did. Initially,
4 one of the first conversations when I was asking him what you
5 guys had on him --

15:05:17 6 **THE COURT:** Not too fast, now.

15:05:19 7 **MS. SCARDINO:** Sorry.

15:05:20 8 **THE COURT:** "Initially, one of the first
9 conversations" --

15:05:23 10 **MS. SCARDINO:** (Reading) -- when I was asking him what
11 you guys on had him, he said DNA. And when we got through the
12 discussion on that, he said, But I've got a witness that saw
13 Steve take me home that night. So he said he admitted to
14 authorities that he was there that day, but that Steve had taken
15 him home. The information he gave me later -- it may have been
16 that conversation or a subsequent conversation -- that it was a
17 child of maybe 12 or 13 years. From what he said, the person --
18 the child had gotten up in the middle of the night to use the
19 restroom and saw him through the window, with Steve out in front
20 of his parents' home.

15:05:57 21 Now, concerning how Mr. Prible would have been able to
22 return to the house after Steve had dropped him off at home,
23 kill the family, and then escape unnoticed, Mr. Prible said --
24 or I'm sorry, Ms. Siegler asked Mr. Beckcom: (Reading) What
25 else did you say to him in that conversation to get him to tell

1 you more about what happened?

15:06:23 2 And he -- and Mr. Beckcom responded: (Reading) I
3 asked him point blank: How did you get in and out without being
4 seen? And he said -- his response was, It's a typical high
5 intensity/low drag maneuver.

15:06:41 6 Now, concerning the fact that many people knew that
7 Steve Herrera was in possession of a large amount of money from
8 bank robberies and would have had a motive to rob the
9 Herrera/Tirado house and kill the family, Ms. Siegler asked
10 Mr. Beckcom: (Reading) Now, back to what you were getting into,
11 this conversation where you were talking about perception of the
12 crime, tell the jury, first of all, what you said as the
13 introduction to this conversation we're just going to talk
14 about.

15:07:18 15 Mr. Beckcom responded: (Reading) Well, he was still
16 in the early stage. He was still asking me, you know, what to
17 expect. I said, Well, it depends on what they found at the
18 crime scene. So he asked me, What do you mean? I said, Well,
19 it depends on where the bodies were. If the police officers
20 walk into a home, and there's several bodies who have been
21 killed in the same room, then it looks like maybe it was a
22 robbery or some kind of organized hit. But if the people are in
23 different rooms, then it gives the impression that they knew who
24 the attacker was because they were comfortable with them to let
25 them in the home. They weren't guarding themselves.

15:07:49 1 (Reading) Question: Did you say anything -- did you
2 say anything to Prible about forced entry?

15:07:55 3 (Reading) Answer: Yes, I did.

15:07:57 4 (Reading) Question: What did you say?

15:07:59 5 (Reading) Answer: I said, Well, if they're all in
6 separate rooms and there is no forced entry, then it's obvious
7 that they knew who the person was.

15:08:12 8 Concerning Prible's lack of motive to kill the family,
9 Ms. Siegler asked Mr. Beckcom: (Reading) Did he ever give you
10 any more detail about why he shot Steve, what his motivation was
11 for doing this?

15:08:23 12 Mr. Beckcom responded: (Reading) Yeah. It was over
13 money.

15:08:31 14 And concerning the fact that the money, the supposed
15 motive for the murders, was never found, Beckcom testified:
16 (Reading) I even asked him, Well, did you at least get my [sic]
17 money back? And he said, No. I said, Well, did you look in the
18 house? And he said, Yeah, but it wasn't there.

15:08:50 19 So Ms. Siegler used Beckcom for a lot more than just
20 to come in and say that Mr. Prible confessed. He was her case,
21 Your Honor, and for all of the reasons that we've laid out this
22 week and in our extensive briefing in our fourth amended
23 petition, we hope that Your Honor will see to it that Mr. Prible
24 is entitled to habeas relief.

15:09:15 25 **THE COURT:** What -- what kind of relief are you asking

1 for, another trial?

15:09:19 2 **MS. SCARDINO:** Yes, Your Honor.

15:09:24 3 **THE COURT:** Okay. Thank you very much.

15:09:26 4 Ms. Miranda?

15:09:36 5 **MS. MIRANDA:** May it please the Court.

15:09:38 6 **THE COURT:** Yes. Please proceed.

15:09:39 7 **MS. MIRANDA:** Your Honor, as a career appellate
8 prosecutor, I'm going to reserve most of my argument for
9 paper --

15:09:44 10 **THE COURT:** Okay.

15:09:45 11 **MS. MIRANDA:** -- because that's what I tend to do
12 best, but I do want to remind the Court of what I mentioned
13 during oral arguments at the beginning of the week, and that is
14 when -- when you listen to Mr. Prible's allegations, they sound
15 pretty damning, and they sound very, very troubling.

15:10:03 16 However, in not just a federal habeas, which happens
17 to be where we are, but in any court proceeding, you can make
18 all the allegations that you want, and you can make all the
19 claims that you want against the prosecutors or whoever else,
20 but at the end of the day, in order to obtain relief on those,
21 you have to provide this Court with proof of those, and that has
22 not been done in the proceedings.

15:10:26 23 And I do just want to take a second -- I'm not going
24 to go over them, but just some of the basic fundamental tenets
25 that they mentioned at the beginning.

1 In their petition, they said: (Reading) If the jury
2 had known that Moreno had given Siegler Foreman's name while
3 Prible was still on low, and that she charged Prible in the
4 belief that she would --

15:10:47 5 **THE COURT:** Slowly. Slowly, now.

15:10:49 6 **MS. MIRANDA:** I apologize.

15:10:49 7 **THE COURT:** "Charged" --

15:10:52 8 **MS. MIRANDA:** (Reading) -- she had charged Prible in
9 the belief that she would have an informant, namely, Foreman, to
10 testify against him, the testimony of Michael Beckcom would have
11 been a lot less believable to the jury.

15:11:02 12 And this part right here at the beginning is really
13 the crux of so much, this attempt to connect Jesse Moreno and
14 Foreman to Michael Beckcom. And the bottom line: There's just
15 absolutely no evidence of that, and this will be set out very
16 clearly in our supplemental briefing. But we have a transcript
17 of that initial interview with Moreno, and there's no mention of
18 Prible.

15:11:25 19 There's no mention of Prible in the indictment.
20 Ms. Siegler just testified to that. She didn't even talk to
21 Foreman until after he had already been charged. And when they
22 talked to Foreman, they believed he was a liar, and they
23 indicted this case without an informant. They didn't have one.
24 And then they didn't meet Michael Beckcom until after he was
25 already indicted.

15:11:48 1 So this -- this attempt that they make to seem like
2 the only reason this case was charged was because the
3 prosecution knew that Foreman would testify is absolutely not
4 true. It's not substantiated. If you go through all of the --
5 the individuals that they claim are connected in this case --
6 and I do think one of the things that's going to be very
7 important for this Court is to make sure that we distinguish
8 between Herrero's case and Prible's case.

15:12:16 9 They are different. They are different people that
10 are involved in each case. But even if you take both of them
11 and you combine them and you look at whether it's a letter they
12 wrote to the prosecutor, whether it's a statement they made to
13 the defense in an interview, whether it's an affidavit that they
14 submitted, no one -- no one has said that Siegler provided them
15 with information except for Mr. Foreman, who even if he is
16 credible before this Court, testified that he didn't share
17 that -- that -- whatever information.

15:12:50 18 He was very vague. He didn't give specifics. The
19 only specifics he gave was in an affidavit, all right? But even
20 then, he also testified he didn't share that information with
21 Michael Beckcom, and Michael Beckcom confirmed that he didn't
22 get information from Prible.

15:13:05 23 So we, personally, don't find Foreman credible, but
24 even if you do, that information never got passed along to the
25 inmate who testified. So there's --

1 **THE COURT:** Well, why -- what's to explain the timing
2 of her going before the grand jury? It's simply she didn't get
3 the case until shortly before that?

4 **MS. MIRANDA:** Yes. That was her testimony at the
5 deposition, was that the detective, Curtis Brown, came to her,
6 asked her to look at it. That was first time she picked it up,
7 and that when she picked it up -- and she testified today -- she
8 thought there was enough. And then she took it to -- she
9 charged him, and then she indicted them, and she did both of
10 those steps without an informant.

11 Now, Mr. Prible is arguing that Foreman was an
12 informant, and if you want to accept the fact that Foreman came
13 to Siegler and lied to her about a confession that he did not
14 have, if that's how you define "informant," then I guess if
15 we're going do it loosely, but --

16 **THE COURT:** That happened before the indictment,
17 right?

18 **MS. MIRANDA:** She -- Foreman came to her on the 8th,
19 yes, and said, "I have information," and she did not believe
20 him, and she never used him.

21 And they also maintain in their closing that they were
22 in constant contact, that they were constantly talking. There's
23 absolutely no evidence of that in the record. And, Your Honor,
24 I could go on and on through all of their individual allegations
25 and show that, yes, they sound damning, but there's no proof

1 underneath them to substantiate, and that's what we'll show in
2 our post-hearing briefing.

15:14:32 3 And if you don't have any other specific questions,
4 Your Honor, I'm going to reserve my arguments for that.

15:14:37 5 **THE COURT:** Okay. Thank you.

15:14:39 6 Did you want another turn?

15:14:41 7 **MS. SCARDINO:** No, Your Honor. Thank you.

15:14:42 8 **THE COURT:** Okay. Okay. How long do y'all need for
9 post-hearing briefs?

15:14:50 10 **MS. SCARDINO:** Your Honor, we would like to get them
11 to you as soon as possible. So --

15:14:53 12 **MS. MIRANDA:** I think if we could get the transcripts,
13 and then set the date out from there, that makes it a little
14 bit.

15:14:58 15 **THE COURT:** Okay. Ten days after you get the
16 transcripts, how about that?

15:15:01 17 **MS. SCARDINO:** That's fine, Your Honor.

15:15:03 18 **MS. MIRANDA:** Thank you.

15:15:03 19 **MS. SCARDINO:** Thank you.

15:15:04 20 **THE COURT:** Okay. Thank you very much.

15:15:07 21 *(Proceedings concluded at 3:15 p.m.)*

22 -o0o-

23 I certify that the foregoing is a correct transcript
24 from the record of proceedings in the above matter.

25 Date: June 5, 2019

/s/ Heather Alcaraz
Signature of Court Reporter

<p>MS. MIRANDA: [26] 4/4 18/8 18/11 18/16 18/19 32/6 35/10 35/13 35/19 40/19 40/24 41/5 41/9 42/7 45/25 47/2 53/23 66/4 66/6 66/10 67/5 67/7 69/3 69/17 70/11 70/17</p> <p>MS. SCARDINO: [35] 19/5 19/14 23/9 32/1 32/9 32/12 35/12 35/17 35/20 38/9 40/23 41/3 41/7 41/18 42/12 44/1 53/25 54/2 54/6 54/10 54/13 54/16 54/20 54/23 55/2 55/4 62/5 62/23 63/6 63/9 66/1 70/6 70/9 70/16 70/18</p> <p>THE CASE MANAGER: [3] 31/25 32/3 32/5</p> <p>THE COURT: [70] 3/9 4/6 18/10 18/14 18/17 18/20 18/22 19/1 19/4 19/12 19/15 23/5 23/7 32/2 32/4 32/13 38/8 41/14 42/9 42/20 43/8 43/13 44/2 46/1 47/3 47/6 47/14 47/20 48/9 49/9 49/23 50/2 50/9 51/1 51/4 51/18 51/22 52/10 52/18 53/6 53/12 53/16 53/19 53/22 53/24 54/1 54/3 54/8 54/11 54/14 54/17 54/22 54/25 55/3 62/4 62/22 63/5 63/7 65/24 66/2 66/5 66/9 67/4 67/6 68/25 69/15 70/4 70/7 70/14 70/19</p> <p>THE WITNESS: [25] 18/25 19/3 19/6 32/8 32/10 43/3 43/11 47/5 47/9 47/19 47/23 49/8 49/10 50/1 50/4 50/19 51/3 51/10 51/21 51/24 52/16 52/20 53/11 53/14 53/21</p>	<p>'01 [1] 28/13 '99 [3] 39/12 39/16 39/18 - -o0o [1] 70/22 / /s [1] 70/25 1 10 [1] 20/2 10th [1] 36/11 11th [2] 22/17 37/20 12 [3] 52/24 53/1 63/17 1200 [1] 20/13 125 [1] 34/24 12548 [1] 1/21 13 [1] 63/17 1300 [1] 20/13 1400 [1] 1/23 15 [1] 15/4 1540 [1] 1/14 17 [1] 55/17 171 [1] 20/2 1896 [1] 1/5 18th [2] 22/22 26/22 1999 [2] 56/8 56/10 1:01 [1] 1/6 1:19 [1] 18/22 1:47 [1] 18/22 2 2000 [1] 26/22 2001 [7] 15/7 15/12 23/21 26/22 28/17 29/18 30/2 2002 [7] 23/22 31/5 31/14 32/18 36/11 37/20 39/17 2004 [1] 39/13 2007 [1] 39/15 2014 [1] 40/7 2016 [2] 34/24 56/12 2017 [1] 23/12 2019 [3] 1/10 3/3 70/25 22nd [5] 31/5 31/14 32/18</p>	<p>34/24 56/12 23 [1] 55/17 250-5584 [1] 2/4 26 [1] 26/3 27th [3] 19/25 20/3 21/15 28th [1] 26/22 2:00 [1] 18/18 2:40 [1] 54/25 2:52 [1] 54/25 3 35 [9] 30/8 31/4 31/13 32/16 33/8 34/13 35/5 37/5 56/1 3:15 [1] 70/21 3rd [4] 28/13 28/17 29/18 44/17 4 401 [1] 1/14 404B [1] 40/23 405 [1] 41/4 4470 [1] 1/15 48 [1] 31/3 4:09-CV-1896 [1] 1/5 5 512 [2] 1/15 1/23 515 [1] 2/3 5584 [1] 2/4 6 655-9111 [1] 1/18 659-4470 [1] 1/15 7 713 [2] 1/18 2/4 72 [3] 58/15 59/3 59/13 77 [1] 56/16 77002 [1] 2/4 77006 [1] 1/17 78-month [1] 56/16 78701 [1] 1/14 78711 [1] 1/22 7th [1] 15/12</p>
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